IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2403 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HASINABEN GULAMAMAD AMTANI - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MS SONA SAGAR for Petitioner(s) : 1,
MR SIRAJ GORI AGP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 1 - 2.
MR DC DAVE for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 17/11/2005

ORAL JUDGMENT

1. In the present petition, the petitioner has challenged legality of an order dated 14/8/2003 passed by

the District Development Officer, Rajkot. By the impugned order District Development Officer was pleased to remove the petitioner from the position of Sarpanch of Maliya Gram Panchayat. The petitioner is also aggrieved by the appellate order dated 11/11/2003 passed by Additional Development Commissioner rejecting appeal of the petitioner.

2. In discharge of the duties as a Sarpanch certain irregularities were detected and the petitioner was visited with a show cause notice by the District Development Officer why action to remove him should not be taken in exercise of powers u/s 57(1) of the Gujarat Panchayat Act, 1993. Several allegations were made against the petitioner. It was inter alia alleged that an amount of Rs. 17,490/- was debited on 26/11/2002 for a certain work regarding cattle. No vouchers for having spent this amount are available on file. No resolution of the Panchayat was passed before undertaking the task. No estimate was called for. It was, therefore, alleged that the petitioner had committed financial irregularities.

2.1 It was also alleged that on 12/6/2002 an amount of

Rs. 17,500/- was stated to have been spent for laying a pipeline for drinking water in Harijanvas. Here also vouchers for having spent the amount are not available on file and no estimates were called for. Prior permission was also not obtained. Resolution of the Panchayat was also not passed.

2.2 It was further alleged that on 19/6/2000 an amount of Rs. 13,000/- was withdrawn from the Bank which was retained by the petitioner and was apparently used for his personal use.

2.3 It was further alleged that the petitioner had committed irregularities in conduct of the meetings of the Panchayat.

3. The petitioner filed his reply to the show cause notice and denied the charges. District Development Officer however did not accept the defence of the petitioner.

3.1 With respect to charge no.1 it was observed that though the petitioner stated that he will produce the vouchers, till the date of passing of the order no such

documents were produced.

3.2 That charge no.2 also till passing of the order petitioner could not produce the vouchers.

3.3 Regarding retaining cash amount of Rs. 13,000/- also there was virtually no dispute about the factual aspects.

3.4 District Development Officer, therefore, found it appropriate to exercise powers u/s 57(1) of the Panchayat Act removing the petitioner from the position of Sarpanch.

4. I do not find that the District Development Officer committed any illegality in passing of the said order. First two charges of the petitioner were serious in nature and involved allegations of having mis-used the funds of the Panchayat. Sizable amounts were spent without resolution from the Panchayat, without calling for estimates. Expenditure were also not supported by vouchers till the date of passing of the order against the petitioner. He could not produce vouchers. In exercise of powers u/s 226 and 227 of the Constitution of India, I see no reason to interfere. Petition is

required to be and hereby rejected. Rule is discharged with no order as to costs.

(Akil Kureshi, J.)

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